

2

Zoning Regulation Amendment Request Form

Howard County

Comprehensive Zoning Plan

Department of Planning and Zoning

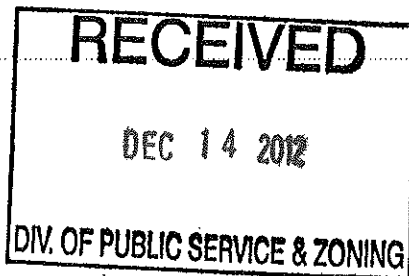
[Word 2007 Version]

A. Applicant Information

1	Applicant Name	Howard County Independent Business Association, Inc.
2	Mailing street address or Post Office Box	10848 Harmel Drive
	City, State	Columbia, Maryland
	ZIP Code	21044
	Telephone (Main)	443.310.1974
	Telephone (Secondary)	
	Fax	410.740.9894
3	E-Mail	Jen151@yahoo.com

B. Representative Information (If different than above).

4	Name	Earl Adams, Jr.
	Mailing street address or Post Office Box	6225 Smith Avenue
	City, State	Baltimore, Maryland
	ZIP	21209
	Telephone (Main)	410.580.4188
	Telephone (Secondary)	
	Fax	410.580.3011
	E-Mail	Earl.adams@dlapiper.com
5	Association with Applicant	Lawyer



C. Brief Description of the Requested Zoning Regulation Amendment

- 6 To amend Section 131 of the Zoning Regulations. The Petitioner proposes amendments to the conditional use regulations in Sections 131.G and 131.N.25, to update the existing conditional use regulations for gasoline service stations applicable in the B-2, SC, M-1, M-2 and PEC zones to reflect current land use policies, to incorporate reasonable regulations that reflect changes in the gasoline industry, and to establish reasonable standards to address the environmental impact and potential blight. The amendment to Section 131.N.25 also extends the applicability of the conditional use regulations for gasoline service stations into the New Town ("NT") District by amending Section 125.A.7 for the purpose of imposing uniform regulations of gasoline service stations throughout the County. The amended Section 131.N.25 requires that there be a demonstrated reasonable public need for the proposed station and requires a needs analysis to demonstrate need. It imposes distance requirements between stations to mitigate the environmental impacts caused by a concentration of gasoline service stations, and imposes tank size limits to decrease the risks of environmental contamination. The amendment also imposes stacking requirements to protect the safety of consumers. The amendment to Section 131.G. establishes the burden of proof for an applicant in a conditional use hearing. Lastly, these amendments are consistent with Policy 10.4 of PlanHoward 2030.

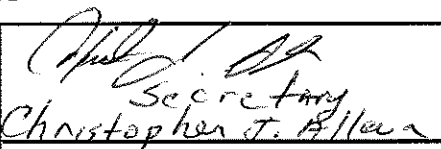
D. Explanation of the Basis / Justification for the Requested Zoning Regulation Amendment

- 7 These amendments are necessary to mitigate the potential harmful impact that a concentration of gasoline service stations can have on the environment. Ensuring that adequate mitigation policies are in place is important, especially since Howard County is one of only six counties in Maryland to be designated by the EPA as a non-attainment area, which means that air pollutants exceed national standards. Gasoline vapors generate ground ozone, which causes smog, and can pose a significant health hazard to sensitive populations. Effectively, the greater the concentration of gasoline service stations in a given area the more ground ozone is created. It is imperative then that reasonable land use policies be developed to control against the concentration of gasoline service stations. These amendments create fair and competitive-neutral standards that will ensure that a public need exists for a gas service station in a given area. Moreover, these amendments are necessary to prevent blight that can be caused by shuttered gasoline service stations. By requiring applicants to demonstrate need, limiting the distance between stations and the size of underground tank size, among other things, these amendments will help reduce hazardous emissions by ensuring that gasoline service stations exist only in appropriate locations around the County.

E. List of Attachments/Exhibits

- 8 1. Zoning Regulation Amendment text

F. Signatures

9	Applicant	 Secretary Christopher J. Miller	Applicant (2)	
	Date	12-14-2012	Date	
€	Additional applicant signatures? <input checked="" type="checkbox"/> the box to the left and attach a separate signature page.			
10	Representative Signature			

Attachment 1

Section 131.N. 25. Gasoline Service Stations

PURPOSE: IT IS THE PURPOSE OF THIS SECTION TO PERMIT THE DEVELOPMENT OF GASOLINE SERVICE STATIONS THAT ARE CONSISTENT WITH HEALTH, SAFETY, NEEDS AND PLANNING GOALS OF THE COUNTY. IT IS FURTHER THE PURPOSE OF THIS SECTION TO ESTABLISH REASONABLE STANDARDS TO PREVENT SUCH CONCENTRATION OF GASOLINE SERVICE STATIONS AS WOULD TEND TO CREATE UNHEALTHY LEVELS OF GROUND LEVEL OZONE, BLIGHT, AND INCREASED RISK OF ENVIRONMENTAL CONTAMINATION CONGESTION, AND TO ALLOW SUCH USES TO BE ESTABLISHED ONLY IN APPROPRIATE AREAS AND TO ENSURE THE PROTECTION OF ENVIRONMENTALLY SENSITIVE AREAS. BECAUSE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY HAS DESIGNATED HOWARD COUNTY AS ONE OF ONLY SIX COUNTIES IN THE STATE OF MARYLAND THAT ARE NON-ATTAINMENT AREAS FOR THE MINIMUM STANDARDS UNDER THE CLEAN AIR ACT, AND DUE TO THE CHANGES IN THE GASOLINE SERVICE STATION INDUSTRY AND THE NEED TO PREVENT THE DEVELOPMENT OF UNNECESSARY GASOLINE SERVICE STATIONS, THESE REGULATIONS ESTABLISH REASONABLE STANDARDS TO MITIGATE THE RISK TO PUBLIC HEALTH AND WELFARE AND TO ENSURE WELL-PLANNED DEVELOPMENT OF GASOLINE SERVICE STATIONS WHERE DEFINITE NEED EXISTS.

A conditional use FOR A GASOLINE SERVICE STATION may be granted in the B-2, SC, M-1, M-2, or PEC Districts ~~for~~, OR IN THE NT DISTRICT IF THE RECORDED FINAL DEVELOPMENT PLAN PHASE PERMITS gasoline service stations (THE "NT DISTRICT"), provided that:

- a. ~~a. —~~ The use will not adversely affect the general welfare or logical development of the neighborhood or area in which the station is proposed ~~and will not have a blighting influence as a result of a proliferation of gasoline service stations within a particular area.~~
- b. THE USE WILL NOT HAVE A BLIGHTING INFLUENCE BECAUSE THERE EXISTS A REASONABLE PUBLIC NEED WITHIN A DESIGNATED AREA FOR THE PROPOSED GASOLINE SERVICE STATION AS DEMONSTRATED BY A NEEDS ASSESSMENT STUDY PREPARED IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

(1) WHERE THE LOT LINE OF A IF THE LOT LINE OF THE PROPOSED GASOLINE SERVICE STATION IS MORE THAN NOT WITHIN 2,500 FEET AWAY FROM OF THE LOT LINE OF AN EXISTING GASOLINE SERVICE STATION, A REASONABLE PUBLIC NEED SHALL BE ESTABLISHED IF THE NEEDS ASSESSMENT STUDY DEMONSTRATES THAT IN TWO (2)

Attachment 1

OF THE THREE (3) MARKET AREAS, AS DEFINED BELOW IN SECTION 3(A), THE TOTAL NUMBER OF FUELING POSITIONS NEEDED, AS DEFINED BELOW IN SECTION 3(F), IS EQUAL TO OR GREATER THAN THE TOTAL NUMBER OF FUELING POSITIONS BEING PROPOSED.

(2) IF THE LOT LINE OF THE PROPOSED GASOLINE SERVICE STATION IS WITHIN 2,500 FEET OF THE LOT LINE OF AN EXISTING GASOLINE SERVICE STATION, AN EVIDENTIARY PRESUMPTION EXISTS THAT THERE IS NO REASONABLE NEED FOR THE PROPOSED GASOLINE STATION. THE PRESUMPTION OF A LACK OF NEED MAY BE OVERCOME IF THE NEEDS ASSESSMENT STUDY DEMONSTRATES BY CLEAR AND CONVINCING EVIDENCE THAT IN ALL THREE (3) OF THE MARKET AREAS, AS DEFINED BELOW IN SECTION (3)(A), THE TOTAL NUMBER OF FUELING POSITIONS NEEDED, AS DEFINED BELOW IN SECTION 3(F), IS EQUAL TO OR GREATER THAN THE TOTAL NUMBER OF FUELING POSITIONS BEING PROPOSED.

(3) THE NEEDS ASSESSMENT STUDY SHALL DEMONSTRATE NEED BY COMPUTING THE FOLLOWING MARKET DATA:

(A) MARKET AREAS FOR THE PROPOSED GASOLINE SERVICE STATION REFERS TO EACH OF THE FOLLOWING AREAS: (I) THE AREA WITHIN A 1.5 MILE RADIUS OF THE PROPOSED LOCATION; (II) THE AREA WITHIN A 2.0 MILE RADIUS OF THE PROPOSED LOCATION; AND (III) THE AREA WITHIN A 3.0 MILE RADIUS OF THE PROPOSED LOCATION.

(B) COUNTYWIDE PER CAPITA DEMAND SHALL BE CALCULATED BY DIVIDING THE TOTAL ANNUAL CONSUMPTION OF GASOLINE COUNTYWIDE BY THE TOTAL NUMBER OF RESIDENTS AND EMPLOYEES COUNTYWIDE.

(C) COUNTYWIDE SUPPLY BY FUELING POSITION RATE SHALL BE CALCULATED BY DIVIDING THE COUNTYWIDE ANNUAL AVERAGE GASOLINE CONSUMPTION IN GALLONS BY THE TOTAL NUMBER OF FUELING POSITIONS (PUMPS AVAILABLE ON EACH MULTIPLE PRODUCT DISPENSERS) COUNTYWIDE.

(D) MARKET AREA DEMAND SHALL BE CALCULATED FOR EACH MARKET AREA BY MULTIPLYING THE TOTAL RESIDENTS AND EMPLOYEES IN THE MARKET AREA BY THE COUNTYWIDE PER CAPITA DEMAND.

(E) MARKET AREA SUPPLY SHALL BE CALCULATED FOR EACH MARKET AREA BY MULTIPLYING THE TOTAL NUMBER OF FUELING POSITIONS WITHIN THE MARKET AREA BY THE COUNTYWIDE SUPPLY BY FUELING POSITION RATE;

Attachment 1

(F) TOTAL NUMBER OF FUELING POSITIONS NEEDED SHALL BE CALCULATED FOR EACH MARKET AREA BY DIVIDING (I) THE DIFFERENCE BETWEEN THE MARKET AREA DEMAND AND THE MARKET AREA SUPPLY, BY (II) THE COUNTYWIDE SUPPLY BY FUELING POSITION RATE.

- c. IF THE PROPOSED GASOLINE SERVICE STATION IS DESIGNED TO DISPENSE MORE THAN 1.8 MILLION GALLONS PER YEAR AND IT IS LOCATED WITHIN 1,000 FEET OF THE LOT LINE OF AN EXISTING GASOLINE SERVICE STATION ALSO DESIGNED TO DISPENSE MORE THAN 1.8 MILLION GALLONS PER YEAR, IT CANNOT BE LOCATED WITHIN 1,000 FEET OF THE LOT LINE OF ANY PUBLIC OR PRIVATE SCHOOL, OR ANY PARK, PLAYGROUND, DAY CARE CENTER, OR ANY OUTDOOR USE CATEGORIZED AS A CULTURAL, ENTERTAINMENT AND RECREATION USE.
- d. IN THE B-2 AND SC DISTRICTS, OTHER USES PERMITTED IN THE DISTRICT, CAR WASHES AND CONVENIENCE STORES MAY BE LOCATED ON THE SAME LOT AS A GASOLINE SERVICE STATION PROVIDED THAT (I) ALL OF THE USES ARE APPROVED BY THE HEARING AUTHORITY; AND (II) THE MINIMUM LOT AREA IS INCREASED TO ACCOMMODATE THE COMBINATION OF USES IN ACCORDANCE WITH THE PROVISIONS OF SECTION 131.N.25.G.
- e. IN THE M-1 AND M-2 DISTRICTS, OTHER USES PERMITTED IN THE DISTRICT, CAR WASHES AND CONVENIENCE STORES WITH A GROSS FLOOR AREA NOT TO EXCEED 3,500 FEET MAY BE LOCATED ON THE SAME LOT AS A GASOLINE SERVICE STATION PROVIDED THAT (I) ALL OF THE USES ARE APPROVED BY THE HEARING AUTHORITY; AND (II) THE MINIMUM LOT AREA IS INCREASED TO ACCOMMODATE THE COMBINATION OF USES IN ACCORDANCE WITH THE PROVISIONS OF SECTION 131.N.25.G.
- f. IN THE NT DISTRICT, THOSE USES PERMITTED IN THE RECORDED FINAL DEVELOPMENT PLAN PHASE MAY BE LOCATED ON THE SAME LOT AS A GASOLINE SERVICE STATION PROVIDED THAT (I) ALL OF THE USES SATISFY THE FINAL DEVELOPMENT PLAN CRITERIA AND ARE APPROVED BY THE HEARING AUTHORITY; AND (II) THE MINIMUM LOT AREA IS INCREASED TO ACCOMMODATE THE COMBINATION OF USES IN ACCORDANCE WITH THE PROVISIONS OF SECTION 131.N.25.G.
- g. IN THE PEC DISTRICT, THE HEARING EXAMINER SHALL DETERMINE THAT THE PROPOSED GASOLINE SERVICE STATION RELATES COMPATIBLY WITH ALL OTHER USES PERMITTED IN THE DISTRICT ACCORDING TO THE COMPREHENSIVE PLAN OF DEVELOPMENT FOR THE AREA. OTHER

Attachment 1

USES PERMITTED IN THE DISTRICT, CAR WASHES AND CONVENIENCE STORES WITH A GROSS FLOOR AREA NOT TO EXCEED 3,500 FEET MAY BE LOCATED ON THE SAME LOT AS A GASOLINE SERVICE STATION PROVIDED THAT (I) ALL OF THE USES ARE APPROVED BY THE HEARING AUTHORITY; AND (II) THE MINIMUM LOT AREA IS INCREASED TO ACCOMMODATE THE COMBINATION OF USES IN ACCORDANCE WITH THE PROVISIONS OF SECTION 131.N.25.G.

- h. ~~b. ———~~ The minimum lot size for a gasoline service station is 20,00040,000 square feet. If a gasoline service station is combined with another use on the same lot, AT A MINIMUM, the minimum lot size shall be increased ~~in accordance with the provisions of Section 131.N.25.i.~~ BY AN AREA EQUAL TO THE GROSS SQUARE FOOTAGE OF FLOOR AREA, PARKING AREA AND LOADING OR STACKING AREAS REQUIRED FOR THE ADDITIONAL USES.
- i. ~~e. ———~~ The lot shall have at least 420150 feet of frontage on a public road. ~~If at the intersection of two public roads, the total of the frontage along both roads may be used if ingress or egress is provided to both roads.~~
- j. ~~d. ———~~ At least 20 percent of the site area shall be landscaped. The landscaping plan shall include plantings which enhance the appearance of the site from public roads and provide appropriate buffering for adjacent uses.
- k. ~~e. ———~~ Solid walls such as masonry or wood and masonry may be required by the Hearing Authority when the site borders a residential district. When solid walls are required, landscape planting is required on the outside of the wall.
- l. ~~f. ———~~ Refuse areas shall be fenced or screened from view. The plan shall indicate the disposal methods to be used for all waste material generated by vehicle repair operations.
- m. ~~g. ———~~ Access driveways and on-site paved areas shall be designed and located to ensure safe and efficient movement of traffic and pedestrians; AND SHALL PROVIDE FOR THE FOLLOWING:
 - (4) A STACKING REQUIREMENT OF AT LEAST FOUR CARS ON EACH SIDE OF AN ISLAND; AND
 - (5) SUFFICIENT AREA TO PROVIDE FOR THE DELIVERY OF MOTOR FUEL WITHOUT IMPEDING THE FLOW OF TRAFFIC ON THE SITE;
- n. STORAGE TANKS FOR GASOLINE OR OTHER MOTOR VEHICLE FUELS SHALL BE LOCATED UNDERGROUND AND THE UNDERGROUND STORAGE

Attachment 1

OF MOTOR FUELS SHALL BE LIMITED TO A TOTAL OF THIRTY THOUSAND (30,000) GALLONS FOR GASOLINE AND A TOTAL OF TEN THOUSAND (10,000) GALLONS OF DIESEL.

o. ~~h.~~——Operation

(6)(4)——Outside operations shall be limited to the dispensing of gasoline, oil, water, pressurized air, the changing of tires and minor servicing. Storage of all automotive supplies shall be within the main structure.

(7)(2)——Vending machines and the sale of propane are permitted as accessory uses, provided these uses are screened or enclosed if required by the Hearing Authority.

(8)(3)——The premises shall be maintained at all times in a clean and orderly condition, including the care or replacement of plant materials required in the ~~landscaping plan~~ LANDSCAPING PLAN. The responsibility for compliance with this provision shall be with all parties having a lease or ownership interest in the gasoline service station.

(9)(4)——Where a gasoline service station is adjacent to a residential district, its hours of operation and a detailed lighting plan shall be approved by the Hearing Authority.

i. ~~h.~~——Other Uses

(1)——~~Other uses may be located on the same lot as a gasoline service station, including uses permitted in the zoning district as well as car washes and convenience stores, provided that all uses are approved by the Hearing Authority; and the~~

(2) ~~The minimum lot area is increased to accommodate the combination of uses. At a minimum, the minimum lot size of 20,000 square feet must be increased by an area equal to the gross square footage of floor area, parking area and loading or stacking areas required for the additional uses.~~

(3)——~~In the PEC, M-1 and M-2 districts, the gross floor area of convenience stores shall not exceed 3,500 feet.~~

p. ~~j.~~——Abandonment

(10) (4)——The premises (including landscaping) of any gasoline service station which is not in continuous operation or is abandoned shall be maintained in the same manner as is required under these regulations for operating gasoline service stations.(1)

(11) (2)——A conditional use for a gasoline service station shall become void upon notice of abandonment by the owner. If notice of

Attachment 1

abandonment is not received, but it is determined by the Department of Planning and Zoning that a gasoline service station has not been in continuous operation for a period of twelve months, a revocation hearing shall be initiated by the Department of Planning and Zoning in accordance with the procedures set forth in Section 131.L. For purposes of this subsection, "continuous operation" shall mean operation as a gasoline service station at least eight hours per day, five days per week.(2)

(12) ~~(3)~~—If a gasoline service station is abandoned and the conditional use becomes void as provided above, all gasoline pumps, pump island canopies and other improvements (not including buildings) shall be removed from the site within six months of the date the conditional use becomes void.

Section 131. G. Burden of Proof

The applicant for a conditional use shall have the burden of proof, which shall be by a preponderance of the evidence UNLESS A GREATER BURDEN IS EXPRESSLY STATED BY THESE REGULATIONS, and which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact which are to be determined by the Hearing Authority or are required to meet any provisions of these regulations.

SECTION 125: NT (New Town) District

A. Definitions, Requirements and Restrictions Applicable to NT Districts

7. Except as otherwise provided in the Final Development Plan, the following restrictions shall be applicable to NT Districts:

- a. Access shall be provided from every use site to a public street or to a system of common streets and ways connecting with the public street system.
- b. The off-street parking requirements of Section 133 of these Regulations shall be applicable.
- c. The accessory use provisions of Section 110 shall be applicable to all residential uses within the NT District.
- d. The provisions of Section 128 (Supplementary Zoning District Regulations) shall apply to the NT District except for those provisions which specifically exclude the NT District.

E. NOTWITHSTANDING ANY OTHER PROVISIONS IN THIS SECTION 125, IF THE APPROVED FINAL DEVELOPMENT PLAN IDENTIFIES A GASOLINE SERVICE STATION AS A SPECIFIC PERMITTED USE OF LAND, THE USE SHALL BE PERMITTED ONLY UPON THE GRANTING OF A CONDITIONAL USE FOR GASOLINE SERVICE STATIONS UNDER SECTION 131.N.25. TO THE EXTENT THE BULK REGULATIONS AND CRITERIA FOR

Attachment 1

APPROVAL IN SECTION 131.N.25 CONFLICT WITH THE FINAL DEVELOPMENT PLAN CRITERIA, THE PROVISIONS OF SECTION 131.N.25 SHALL APPLY.

Subject to any additional specific permitted uses of land which may be designated on an approved Final Development Plan pursuant to Section 125.C.3.d of these Regulations, if an approved Final Development Plan designates POR, B-1, B-2, SC or M-1 District uses or any combination thereof for a specific area, then the general permitted uses for such area shall be those uses permitted as a matter of right in those districts. ~~However,~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION 7. The bulk regulations for those districts regulating the location of structures, height limitations, setback provisions, minimum lot sizes, and coverage requirements shall not apply inasmuch as the controls therefore shall be included in the Final Development Plan approved by the Planning Board as provided under these Regulations.